

**STATE OF LOUISIANA
DIVISION OF ADMINISTRATIVE LAW
ETHICS ADJUDICATORY BOARD**

BOARD OF ETHICS

*** DOCKET NO. 2020-5804-ETHICS-A**

IN THE MATTER OF

GREG PETE

*** AGENCY TRACKING NO. 5120-056**

DECISION AND ORDER

The Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, requested a hearing to have the Ethics Adjudicatory Board determine whether Greg Pete failed to file his 10-G campaign finance disclosure report by the eleventh day after it was due in connection with his 2019 candidacy for City Marshal – City Court, City of New Iberia. The Louisiana Board of Ethics proved by clear and convincing evidence that Greg Pete failed to file this report as alleged. The Louisiana Board of Ethics is authorized to impose an additional civil penalty of up to \$10,000 upon Greg Pete, as allowed by La. R.S. 18:1505.4(A)(4)(b).

APPEARANCES

The hearing in this matter was conducted September 29, 2020, in Baton Rouge, Louisiana, before the Ethics Adjudicatory Board, Panel A.¹ Charles E. Reeves, Jr., counsel for the Louisiana Board of Ethics, appeared for the hearing. Though properly noticed,² Greg Pete did not appear for the hearing.

¹ The panel consisted of administrative law judges A. Brock Avery (presiding), Lance B. Vinson, and Sherlyn Shumpert.

² The *Conference Report and Order* setting this matter for hearing and Division of Administrative Law correspondence notifying Mr. Pete of the hearing date and time were mailed to his last known address on July 15, 2020. These documents are part of the record in this matter; the Board of Ethics included them as BOE-11, an exhibit that was admitted into evidence.

STATEMENT OF THE CASE

In connection with his 2019 candidacy for City Marshal – City Court, City of New Iberia, the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure (BOE), imposed a civil penalty on Greg Pete (Respondent) for failing to file the campaign finance disclosure report that was due on the tenth day before the general election (the 10-G report). The BOE then requested a hearing to have the Ethics Adjudicatory Board (EAB) determine whether Respondent failed to file his 10-G report by the eleventh day after it was due, which could subject him to an additional civil penalty of up to \$10,000, as provided by La. R.S. 18:1505.4(A)(4)(b).

Counsel for the BOE offered eleven exhibits during the hearing, all of which were admitted into evidence.³ Counsel presented the case on behalf of the BOE, the record was closed, and the matter was submitted for decision.

This adjudication is conducted in accordance with Code of Governmental Ethics, La. R.S. 42:1101, *et seq.*, the Campaign Financial Disclosure Act (CFDA), La. R.S. 18:1481, *et seq.*, the Administrative Procedure Act, La. R.S. 49:950, *et seq.*, and the enabling legislation of the Division of Administrative Law, La. R.S. 49:991, *et seq.*

FINDINGS OF FACT

- 1) Respondent qualified as a candidate for City Marshal – City Court, City of New Iberia, in the October 12, 2019, primary election.⁴ Respondent received seventeen percent of the vote in the primary election and did not qualify to participate in the general election.⁵
- 2) Respondent was required to file a 10-G report no later than November 6, 2019, the tenth

³ All of the exhibits had been certified by affidavit to be true and correct copies of the BOE records. BOE-1 (August 25, 2020, affidavit of Carolyn Abadie Landry, Executive Secretary for the BOE).

⁴ See BOE-2 (Louisiana Secretary of State certificate and *Notice of Candidacy*).

⁵ BOE-3, p. 4.

day prior to the November 16, 2019, general election.⁶

- 3) Respondent did not file his 10-G report by the November 6, 2019, deadline, nor did he file it by November 17, 2019, the eleventh day after it was due.⁷
- 4) On March 6, 2020, the BOE issued a *Late Fee Assessment Order* to Respondent that (a) assessed late fee of \$2,000 and (b) ordered Respondent to file a 10-G report within twenty days of his receipt of the order.⁸ The *Late Fee Assessment Order* was mailed to Respondent at 632 Julia Street, New Iberia, Louisiana 70560-5537 (the Julia Street address),⁹ which is also the address Respondent used on his *Notice of Candidacy*.¹⁰ Respondent was notified in the letter accompanying the *Late Fee Assessment Order* that he could be subject to “an additional \$10,000 penalty” if he failed to file the 10-G report.¹¹
- 5) The BOE mailed a copy of the *Request for Hearing* to Respondent at the Julia Street address; it was delivered on June 4, 2020.¹²
- 6) Respondent did not respond to the *Late Fee Assessment Order*¹³ or appear for the September 29, 2020, hearing.

CONCLUSIONS OF LAW

Respondent knowingly failed to file a 10-G report by the eleventh day after the report was due. Because of this failure, the BOE is authorized to impose an additional civil penalty

⁶ See La. R.S. 18:1495.4(B)(5).

⁷ BOE-7 (Affidavit of Angela Newsom, Director of Campaign Finance for the BOE, stating that, as of August 25, 2020, Respondent had still not filed a 10-G report for the October 12, 2019, primary election). As of the date of the hearing, there was nothing in the record showing that Respondent had filed the 10-G report and/or paid the assessed late fee (civil penalty).

⁸ BOE-6, p. 2.

⁹ *Id.* at p. 1.

¹⁰ BOE-2, p. 2.

¹¹ BOE-6, p. 1.

¹² BOE-5, p. 8.

¹³ See BOE-7.

upon Respondent, as allowed by La. R.S. 18:1505.4(A)(4)(b).

Report Filing Requirements and Penalties

Every candidate (or his campaign treasurer) for a “district office” is required to file reports of contributions and expenditures on specific days before and after an election.¹⁴ One of these reports is the 10-G report, which must be filed no later than the tenth day prior to the general election.¹⁵ Any candidate for a district office who knowingly fails to timely file a 10-G report may be assessed a fixed statutory civil penalty in the amount of \$60 per day, not to exceed \$2,000.¹⁶

In addition to the fixed statutory civil penalty, an additional civil penalty may be imposed for a candidate’s continued failure to file a 10-G report.¹⁷ Prior to the imposition of any additional civil penalty, the EAB must conduct an adjudicatory hearing in accordance with the Code of Governmental Ethics.¹⁸ In a hearing under La. R.S. 18:1505.4(A)(4)(b) regarding the imposition of an additional civil penalty, the BOE must prove by clear and convincing evidence¹⁹ that the candidate knowingly failed to file a 10-G report by the eleventh day after it was due. A rebuttable presumption of intent not to file reports exists when a candidate fails to submit any required report within three days after the final date for its filing.²⁰

Underlying “Late Fee” (Civil Penalty) Assessment

Respondent was an unsuccessful candidate for the office of City Marshal – City Court,

¹⁴ See La. RS. 18:1484(1) and La. R.S. 18:1495.4.

¹⁵ La. R.S. 18:1495.4(B)(5).

¹⁶ La. R.S. 18:1505.4(A)(2)(a)(ii).

¹⁷ See La. R.S. 18:1505.4(A)(4).

¹⁸ La. R.S. 18:1505.4(A)(4); La. R.S. 42:1101, *et. seq.*

¹⁹ See La. R.S. 42:1141.5(C). “‘Clear and convincing evidence’, in general, means that the fact of guilt must be proven to a greater degree than by ‘a mere preponderance of the evidence’ but less than by ‘beyond a reasonable doubt.... The standard requires that the existence of the disputed fact be [h]ighly probable, that is, much more probable than its non-existence.’” *Louisiana State Bar Ass’n v. Edwins*, 329 So. 2d 437, 442 (La. 1976).

²⁰ La. R.S. 18:1505.1(A).

City of New Iberia, which is a district office.²¹ Even though Respondent did not qualify for the general election, he was required to file his 10-G report no later than November 6, 2019, the tenth day prior to the general election. Respondent did not file his 10-G report by November 6, 2019, deadline. The BOE sent Respondent a *Late Fee Assessment Order* assessing the maximum “late fee” (civil penalty) of \$2,000 for his failure to file the required 10-G report.²²

Assessment of Additional Civil Penalty

With the benefit of the un rebutted statutory presumption of intent not to file, the BOE proved by clear and convincing evidence that Respondent knowingly violated the CFDA by failing to file his 10-G report by the eleventh day after the November 6, 2019, deadline. As a result, the BOE is authorized to impose an additional civil penalty up to \$10,000, as allowed by La. R.S. 18:1505.4(A)(4)(b).

²¹ See La. R.S. 18:1483(7)(e) (defining “District office” as including city court marshal).

²² The *Late Fee Assessment Order* was not appealed by Respondent and is not before the EAB in this matter. See BOE-6 and La. R.S. 18:1511.4.1(C) (providing individuals a right to appeal a final order for the payment of civil penalties).

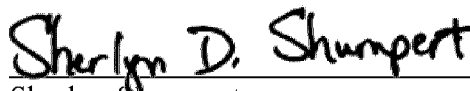
ORDER

IT IS ORDERED that the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, is authorized to impose an additional civil penalty not to exceed \$10,000 upon Greg Pete, in accordance with La. R.S. 18:1505.4(A)(4)(b), for his failure to file his 10-G campaign finance disclosure report by the eleventh day after it was due.

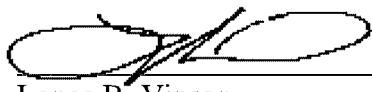
Rendered and signed November 24, 2020 in Baton Rouge, Louisiana.



A. Brock Avery
Presiding Administrative Law Judge



Sherlyn Shumpert
Administrative Law Judge



Lance B. Vinson
Administrative Law Judge

NOTICE OF TRANSMISSION OF DECISION OR ORDER

I certify that on Tuesday, November 24, 2020, I have sent a copy of this decision/order to all parties of this matter.

Clerk of Court

Division of Administrative Law

REVIEW RIGHTS

Requests for rehearing, reopening, or reconsideration are subject to the procedures, timing requirements, and legal grounds provided in Louisiana Revised Statute 49:959, with the time for filing calculated pursuant to Louisiana Code of Civil Procedure article 5059. To determine your review rights, you should act promptly and seek legal advice.

To request a rehearing or reconsideration, please send it to one of the addresses indicated below:

EMAIL documents to:
EABprocessing@adminlaw.state.la.us

FAX documents to:
EAB Section Deputy Clerk
(225) 219-9820

MAIL documents to:
DAL – EAB Section
ATTN: EAB Section Deputy Clerk
P. O. Box 44033
Baton Rouge, LA 70804-4033

If you do not request a rehearing of your decision or your rehearing request is denied, you have the right to seek judicial review in accordance with La. R.S. 42:1142(A)(1), with the time for requesting judicial review calculated pursuant to La. C.C.P. art 5059. To determine your review rights, you should act promptly and seek legal advice.